

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**TIM SHAPUTIS,**

**Plaintiff,**

**v.**

**TRUCK CENTERS, INC.,**

**Defendant.**

**No. 05-CV-0724-DRH**

**ORDER**

**HERNDON, District Judge:**

Pending before the Court is Defendant's October 11, 2005 motion for partial summary judgment (Doc. 6). Specifically, Defendant contends that it is entitled to partial summary judgment on Counts I and II of the complaint based on the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1453 ("ERISA") preemption. As of this date, Plaintiff has not filed a response to the motion. Pursuant to **LOCAL RULE 7.1(c)**, the Court considers this failure to respond an admission of the merits of the motion.<sup>1</sup>

Thus, the Court finds that Defendant is entitled to partial summary judgment against Plaintiff on Counts I and II of the complaint. The Court **ORDERS** the Clerk of the Court to enter judgment in favor of Defendant and against Plaintiff

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<sup>1</sup>**LOCAL RULE 7.1(c)** provides in part: "An adverse party shall have **thirty (30)** days after the service (*see* FED. R. CIV. P. 6) of the movant's motion in which to serve and file an answering brief. Failure to timely file an answering brief to a motion may, in the court's discretion, be considered an admission of the merits of the motion."

on Counts I and II at the close of the case.

**IT IS SO ORDERED.**

Signed this 17th day of November, 2005.

/s/ David RHerndon  
**United States District Judge**